

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

MAY 07 2010

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

RONALD A. SMITH,

Plaintiff - Appellant,

v.

MICHAEL MAHONEY, Montana State
Prison,

Respondent - Appellee.

No. 94-99003

D.C. No. CV-86-198-M-CCL
District of Montana,
Missoula

ORDER

Before: B. FLETCHER, THOMAS and McKEOWN, Circuit Judges.

The panel has voted to deny the petition for rehearing, with Judge B Fletcher voting to grant it. Judges Thomas and McKeown voted to reject the petition for rehearing en banc. Judge B Fletcher voted to grant the petition for rehearing en banc.

The full court has been advised of the petition for rehearing en banc, and no judge of the court has requested a vote on the petition for rehearing en banc. Fed. R. App. P. 35(b).

The petition for rehearing and the petition for rehearing en banc are rejected.